# CHAPTER 775

## DEFINITIONS; GENERAL PENALTIES; REGISTRATION OF CRIMINALS

**775.01 Common law of England.**—The common law of England in relation to crimes, except so far as the same relates to the modes and degrees of punishment, shall be of full force in this state where there is no existing provision by statute on the subject.

**History.**—s. 1, Nov. 6, 1829; s. 1, Feb. 10, 1832; RS 2369; GS 3194; RGS 5024; CGL 7126.

**775.011 Short title; applicability to antecedent offenses.**—

(1) This act shall be known and may be cited as the "Florida Criminal Code."

(2) Except as provided in subsection (3), the code does not apply to offenses committed prior to October 1, 1975, and prosecutions for such offenses shall be governed by the prior law. For the purposes of this section, an offense was committed prior to October 1, 1975, if any of the material elements of the offense occurred prior thereto.

(3) In any case pending on or after October 1, 1975, involving an offense committed prior to such date, the provisions of the code involving any quasi-procedural matter shall govern, insofar as

they are justly applicable, and the provisions of the code according a defense or mitigation or establishing a penalty shall apply only with the consent of the defendant.

**History.**—s. 1, ch. 74-383; s. 43, ch. 75-298; s. 484, ch. 81-259.

**775.012 General purposes.**—The general purposes of the provisions of the code are:

(1) To proscribe conduct that improperly causes or threatens substantial harm to individual or public interest.

(2) To give fair warning to the people of the state in understandable language of the nature of the conduct proscribed and of the sentences authorized upon conviction.

(3) To define clearly the material elements constituting an offense and the accompanying state of mind or criminal intent required for that offense.

(4) To differentiate on reasonable grounds between serious and minor offenses and to establish appropriate disposition for each.

(5) To safeguard conduct that is without fault or legitimate state interest from being condemned as criminal.

(6) To ensure the public safety by deterring the commission of offenses and providing for the opportunity for rehabilitation of those convicted and for their confinement when required in the interests of public protection.

**History.**—s. 2, ch. 74-383; s. 1, ch. 77-174.

**775.02 Punishment of common-law offenses.**—When there exists no such provision by statute, the court shall proceed to punish such offense by fine or imprisonment, but the fine shall not exceed $500, nor the imprisonment 12 months.

**History.**—s. 1, Nov. 6, 1829; RS 2370; GS 3195; RGS 5025; CGL 7127; s. 76, Feb. 10, 1832.

**775.021 Rules of construction.**—

(1) The provisions of this code and offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused.

(2) The provisions of this chapter are applicable to offenses defined by other statutes, unless the code otherwise provides.

(3) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

(4)(a) Whoever, in the course of one criminal transaction or episode, commits an act or acts which constitute one or more separate criminal offenses, upon conviction and adjudication of guilt, shall be sentenced separately for each criminal offense; and the sentencing judge may order the sentences to be served concurrently or consecutively. For the purposes of this subsection, offenses are separate if each offense requires proof of an element that the other does not, without regard to the accusatory pleading or the proof adduced at trial.

(b) The intent of the Legislature is to convict and sentence for each criminal offense committed in the course of one criminal episode or transaction and not to allow the principle of lenity as set forth in subsection (1) to determine legislative intent. Exceptions to this rule of construction are:

1. Offenses which require identical elements of proof.

2. Offenses which are degrees of the same offense as provided by statute.

3. Offenses which are lesser offenses the statutory elements of which are subsumed by the greater offense.

(5) Whoever commits an act that violates a provision of this code or commits a criminal offense defined by another statute and thereby causes the death of, or bodily injury to, an unborn child commits a separate offense if the provision or statute does not otherwise specifically provide a separate offense for such death or injury to an unborn child.

(a) Except as otherwise provided in this subsection, the punishment for a separate offense under this subsection is the same as the punishment provided under this code or other statute for that conduct had the injury or death occurred to the mother of the unborn child.

(b) An offense under this subsection does not require proof that the person engaging in the conduct:

1. Had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

2. Intended to cause the death of, or bodily injury to, the unborn child.

(c) Notwithstanding any other provision of law, the death penalty may not be imposed for an offense under this subsection.

(d) This subsection does not permit the prosecution:

1. Of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

2. Of a person for providing medical treatment of the pregnant woman or her unborn child; or

3. Of a woman with respect to her unborn child.

(e) As used in this subsection, the term “unborn child” means a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

**History.**—s. 3, ch. 74-383; s. 1, ch. 76-66; s. 1, ch. 77-174; s. 1, ch. 83-156; s. 7, ch. 88-131; s. 2, ch. 2014-194.

**775.027 Insanity defense.**—

(1) AFFIRMATIVE DEFENSE.—All persons are presumed to be sane. It is an affirmative defense to a criminal prosecution that, at the time of the commission of the acts constituting the offense, the defendant was insane. Insanity is established when:

(a) The defendant had a mental infirmity, disease, or defect; and

(b) Because of this condition, the defendant:

1. Did not know what he or she was doing or its consequences; or

2. Although the defendant knew what he or she was doing and its consequences, the defendant did not know that what he or she was doing was wrong.

Mental infirmity, disease, or defect does not constitute a defense of insanity except as provided in this subsection.

(2) BURDEN OF PROOF.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

**History.**—s. 1, ch. 2000-315.

**775.03 Benefit of clergy.**—The doctrine of benefit of clergy shall have no operation in this state.

**History.**—s. 75, Feb. 10, 1832; RS 2371; GS 3196; RGS 5026; CGL 7128.

**775.04 What penal acts or omissions not public offenses.**—Acts or omissions to which a pecuniary penalty is attached, recoverable by action by a person for his or her own use or for the use, in whole or in part, of the state or of a county or a public body, or of a corporation, are not public offenses within the meaning of these statutes.

**History.**—RS 2349; GS 3173; RGS 5002; CGL 7101; s. 1184, ch. 97-102.

**775.051 Voluntary intoxication; not a defense; evidence not admissible for certain purposes; exception.**—Voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substance as described in chapter 893 is not a defense to any offense proscribed by law. Evidence of a defendant's voluntary intoxication is not admissible to show that the defendant lacked the specific intent to commit an offense and is not admissible to show that the defendant was insane at the time of the offense, except when the consumption, injection, or use of a controlled substance under chapter 893 was pursuant to a lawful prescription issued to the defendant by a practitioner as defined in s. 893.02.

**History.**—s. 1, ch. 99-174; s. 29, ch. 2016-224.

**775.08 Classes and definitions of offenses.**—When used in the laws of this state:

(1) The term "felony" shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary. "State penitentiary" shall include state correctional facilities. A person shall be imprisoned in the state penitentiary for each sentence which, except an extended term, exceeds 1 year.

(2) The term "misdemeanor" shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not in excess of 1 year. The term

"misdemeanor" shall not mean a conviction for any noncriminal traffic violation of any provision of chapter 316 or any municipal or county ordinance.

(3) The term "noncriminal violation" shall mean any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. The term "noncriminal violation" shall not mean any conviction for any violation of any municipal or county ordinance. Nothing contained in this code shall repeal or change the penalty for a violation of any municipal or county ordinance.

(4) The term "crime" shall mean a felony or misdemeanor.

**History.**—s. 1(11), ch. 1637, 1868; RS 2352; GS 3176; RGS 5006; CGL 7105; s. 1, ch. 71-136; s. 4, ch. 74-383; s. 1, ch. 75-298; s. 1, ch. 88-196.

**775.081 Classifications of felonies and misdemeanors.**—

(1) Felonies are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:

(a) Capital felony;

(b) Life felony;

(c) Felony of the first degree;

(d) Felony of the second degree; and

(e) Felony of the third degree.

A capital felony and a life felony must be so designated by statute. Other felonies are of the particular degree designated by statute. Any crime declared by statute to be a felony without specification of degree is of the third degree, except that this provision shall not affect felonies punishable by life imprisonment for the first offense.

(2) Misdemeanors are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:

(a) Misdemeanor of the first degree; and

(b) Misdemeanor of the second degree.

A misdemeanor is of the particular degree designated by statute. Any crime declared by statute to be a misdemeanor without specification of degree is of the second degree.

(3) This section is supplemental to, and is not to be construed to alter, the law of this state establishing and governing criminal offenses that are divided into degrees by virtue of distinctive elements comprising such offenses, regardless of whether such law is established by constitutional provision, statute, court rule, or court decision.

**History.**—s. 2, ch. 71-136; s. 1, ch. 72-724.

**775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.**—

(1)(a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in a determination that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b)1. A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years. A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(a).

2. A person who did not actually kill, intend to kill, or attempt to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life if, after a sentencing hearing conducted by the court in accordance with s. 921.1401, the court finds that life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

3. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(a) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a)1. For a life felony committed before October 1, 1983, by a term of imprisonment for life or for a term of at least 30 years.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4.a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of at least 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

5. Notwithstanding subparagraphs 1.-4., a person who is convicted under s. 782.04 of an offense that was reclassified as a life felony which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

6. For a life felony committed on or after October 1, 2014, which is a violation of s. 787.06(3)(g), by a term of imprisonment for life.

(b)1. For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

2. Notwithstanding subparagraph 1., a person convicted under s. 782.04 of a first degree felony punishable by a term of years not exceeding life imprisonment, or an offense that was reclassified as a first degree felony punishable by a term of years not exceeding life, which was committed before the person attained 18 years of age may be punished by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. 921.1402(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(c) Notwithstanding paragraphs (a) and (b), a person convicted of an offense that is not included in s. 782.04 but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401 and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(d).

(d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.

(e) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8)(a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

(b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.

(c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.

(d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.

(9)(a)1. “Prison releasee reoffender” means any defendant who commits, or attempts to commit:

a. Treason;

b. Murder;

c. Manslaughter;

d. Sexual battery;

e. Carjacking;

f. Home-invasion robbery;

g. Robbery;

h. Arson;

i. Kidnapping;

j. Aggravated assault with a deadly weapon;

k. Aggravated battery;

l. Aggravated stalking;

m. Aircraft piracy;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Any felony that involves the use or threat of physical force or violence against an individual;

p. Armed burglary;

q. Burglary of a dwelling or burglary of an occupied structure; or

r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5);

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor or within 3 years after being released from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

a. For a felony punishable by life, by a term of imprisonment for life;

b. For a felony of the first degree, by a term of imprisonment of 30 years;

c. For a felony of the second degree, by a term of imprisonment of 15 years; and

d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.

(d)1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

(10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

(11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

**History.**—s. 3, ch. 71-136; ss. 1, 2, ch. 72-118; s. 2, ch. 72-724; s. 5, ch. 74-383; s. 1, ch. 77-174; s. 1, ch. 83-87; s. 1, ch. 94-228; s. 16, ch. 95-184; s. 4, ch. 95-294; s. 2, ch. 97-239; s. 2, ch. 98-3; s. 10, ch. 98-204; s. 2, ch. 99-188; s. 3, ch. 2000-246; s. 1, ch. 2001-239; s. 2, ch. 2002-70; ss. 1, 2, ch. 2002-211; s. 4, ch. 2005-28; s. 13, ch. 2008-172; s. 1, ch. 2008-182; s. 1, ch. 2009-63; s. 2, ch. 2011-200; s. 8, ch. 2014-160; s. 1, ch. 2014-220; s. 1, ch. 2016-13; s. 19, ch. 2016-24.

**775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.**—The Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law

enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(3) For attempted felony murder as described in s. 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(4) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(5) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(6) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(7) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(8) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(9) For kidnapping as described in s. 787.01, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(10) For aggravated battery as described in s. 784.045, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

(11) For aggravated assault as described in s. 784.021, a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

**History.**—s. 3, ch. 89-100; s. 1, ch. 90-77; s. 16, ch. 93-406; s. 17, ch. 95-184; s. 11, ch. 97-194; s. 5, ch. 98-417; s. 3, ch. 2001-236; s. 1, ch. 2007-212; s. 2, ch. 2010-121; s. 5, ch. 2012-21; s. 26, ch. 2016-24.

**775.083 Fines.**—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be

sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

(a) $15,000, when the conviction is of a life felony.

(b) $10,000, when the conviction is of a felony of the first or second degree.

(c) $5,000, when the conviction is of a felony of the third degree.

(d) $1,000, when the conviction is of a misdemeanor of the first degree.

(e) $500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

(g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01, except that the clerk shall remit fines imposed when adjudication is withheld to the Department of Revenue for deposit in the General Revenue Fund. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term “convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be $50 for a felony and $20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

**History.**—s. 4, ch. 71-136; s. 6, ch. 74-383; s. 1, ch. 77-97; s. 1, ch. 77-174; s. 1, ch. 96-408; s. 1810, ch. 97-102; s. 117, ch. 2003-402; s. 5, ch. 2009-6; s. 29, ch. 2010-162.

**775.0835 Fines; surcharges; Crimes Compensation Trust Fund.**—

(1) When any person pleads guilty or nolo contendere to, or is convicted of, any felony or misdemeanor under the laws of this state which resulted in the injury or death of another person, the court may, if it finds that the defendant has the present ability to pay the fine and finds that the impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare, in addition to any other penalty, order the defendant to pay a fine, commensurate with the offense committed and with the probable impact upon the victim, but not to exceed $10,000. The fine shall be remitted to the Department of Revenue for deposit in the Crimes Compensation Trust Fund.

(2) The additional $50 obligation created by s. 938.03 shall be collected, and $49 of each $50 collected shall be remitted to the Department of Revenue for deposit in the Crimes Compensation Trust Fund, prior to any fine or surcharge authorized by this chapter. These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

**History.**—ss. 2, 3, ch. 77-452; s. 20, ch. 80-146; s. 2, ch. 83-319; s. 8, ch. 85-326; s. 12, ch. 91-23; s. 2, ch. 93-9; s. 18, ch. 94-342; s. 6, ch. 97-271; s. 18, ch. 2001-122.

**775.0837 Habitual misdemeanor offenders.**—

(1) As used in this section, the term:

(a) "Convicted" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(b) "Habitual misdemeanor offender" means a defendant who is before the court for sentencing for a specified misdemeanor offense and who has previously been convicted, as an adult, of four or more specified misdemeanor offenses which meet the following criteria:

1. The offenses, in relation to each other and the misdemeanor before the court for sentencing, are separate offenses that are not part of the same criminal transaction or episode.

2. The offenses were committed within 1 year of the date that the misdemeanor before the court for sentencing was committed.

(c) "Specified misdemeanor offense" means those misdemeanor offenses described in chapter 741, chapter 784, chapter 790, chapter 796, chapter 800, chapter 806, chapter 810, chapter 812, chapter 817, chapter 831, chapter 832, chapter 843, chapter 856, chapter 893, or chapter 901.

(d) "Imprisonment" means incarceration in a county jail operated by the county or a private vendor.

(2) If the court finds that a defendant before the court for sentencing for a misdemeanor is a habitual misdemeanor offender, the court shall, unless the court makes a finding that an alternative disposition is in the best interests of the community and defendant, sentence the defendant as a habitual misdemeanor offender and impose one of the following sentences:

(a) A term of imprisonment of not less than 6 months, but not to exceed 1 year;

(b) Commitment to a residential treatment program for not less than 6 months, but not to exceed 364 days, provided that the treatment program is operated by the county or a private vendor with which the county has contracted to operate such program, or by a private vendor under contract with the state or licensed by the state to operate such program, and provided that any referral to a residential treatment facility is in accordance with the assessment criteria for residential treatment established by the Department of Children and Families, and that residential treatment beds are available or other community-based treatment program or a combination of residential and community-based program; or

(c) Detention for not less than 6 months, but not to exceed 364 days, to a designated residence, if the detention is supervised or monitored by the county or by a private vendor with which the county has contracted to supervise or monitor the detention.

The court may not sentence a defendant under this subsection if the misdemeanor offense before the court for sentencing has been reclassified as a felony as a result of any prior qualifying misdemeanor.

**History.**—s. 1, ch. 2004-348; s. 295, ch. 2014-19.

**775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.**—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(a), if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or

b. Within 5 years of the date of the conviction of the defendant's last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(b), if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault with a deadly weapon;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery; or

o. Aggravated stalking.

2. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years of the date of the conviction of the last prior enumerated felony, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(c) "Three-time violent felony offender" means a defendant for whom the court must impose a mandatory minimum term of imprisonment, as provided in paragraph (4)(c), if it finds that:

1. The defendant has previously been convicted as an adult two or more times of a felony, or an attempt to commit a felony, and two or more of such convictions were for committing, or attempting to commit, any of the following offenses or combination thereof:

a. Arson;

b. Sexual battery;

c. Robbery;

d. Kidnapping;

e. Aggravated child abuse;

f. Aggravated abuse of an elderly person or disabled adult;

g. Aggravated assault with a deadly weapon;

h. Murder;

i. Manslaughter;

j. Aggravated manslaughter of an elderly person or disabled adult;

k. Aggravated manslaughter of a child;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Armed burglary;

n. Aggravated battery;

o. Aggravated stalking;

p. Home invasion/robbery;

q. Carjacking; or

r. An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in sub-subparagraphs a.-q., or an attempt to commit any such felony offense.

2. The felony for which the defendant is to be sentenced is one of the felonies enumerated in sub-subparagraphs 1.a.-q. and was committed:

a. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r.; or

b. Within 5 years after the date of the conviction of the last prior offense enumerated in sub-subparagraphs 1.a.-r., or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r., whichever is later.

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4)(d), if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

a. Any forcible felony, as described in s. 776.08;

b. Aggravated stalking, as described in s. 784.048(3) and (4);

c. Aggravated child abuse, as described in s. 827.03(2)(a);

d. Aggravated abuse of an elderly person or disabled adult, as described in s. 825.102(2);

e. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in s. 800.04 or s. 847.0135(5);

f. Escape, as described in s. 944.40; or

g. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or

b. Within 5 years after the conviction of the last prior enumerated felony, or within 5 years after the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(e) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction.

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a habitual felony offender or a habitual violent felony offender as provided in this subparagraph.

(b) In a separate proceeding, the court shall determine if the defendant is a three-time violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a three-time violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a three-time violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after the effective date of this act, if the state attorney pursues a three-time violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a three-time violent felony offender, subject to imprisonment pursuant to this section as provided in paragraph (4)(c).

(c) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (d).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

(d)1. A person sentenced under paragraph (4)(d) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c)1. The court, in conformity with the procedure established in paragraph (3)(b), must sentence the three-time violent felony offender to a mandatory minimum term of imprisonment, as follows:

a. In the case of a felony punishable by life, to a term of imprisonment for life;

b. In the case of a felony of the first degree, to a term of imprisonment of 30 years;

c. In the case of a felony of the second degree, to a term of imprisonment of 15 years; or

d. In the case of a felony of the third degree, to a term of imprisonment of 5 years.

2. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(d) The court, in conformity with the procedure established in paragraph (3)(c), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

(e) If the court finds, pursuant to paragraph (3)(a) or paragraph (3)(c), that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(f) At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a), paragraph (3)(b), or paragraph (3)(c).

(g) A sentence imposed under this section shall not be increased after such imposition.

(h) A sentence imposed under this section is not subject to s. 921.002.

(i) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(j) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

**History.**—s. 5, ch. 71-136; s. 7, ch. 74-383; s. 1, ch. 75-116; s. 2, ch. 75-298; s. 1, ch. 77-174; s. 6, ch. 88-131; s. 1, ch. 89-280; s. 2, ch. 93-406; s. 2, ch. 95-182; s. 8, ch. 95-195; s. 14, ch. 96-322; s. 44, ch. 96-388; s. 12, ch. 97-78; s. 12, ch. 97-194; s. 11, ch. 98-204; s. 3, ch. 99-188; s. 3, ch. 99-201; s. 3, ch. 2000-246; ss. 1, 2, ch. 2002-210; s. 2, ch. 2003-23; s. 14, ch. 2008-172; s. 10, ch. 2012-155; s. 39, ch. 2016-105.

**775.0841 Legislative findings and intent.**—The Legislature finds a substantial and disproportionate number of serious crimes are committed in Florida by a relatively small number of repeat and violent felony offenders, commonly known as career criminals. The Legislature further finds that priority should be given to the investigation, apprehension, and prosecution of career criminals in the use of law enforcement resources and to the incarceration of career criminals in the use of available prison space. The Legislature intends to initiate and support increased efforts by state and local law enforcement agencies and state attorneys' offices to investigate, apprehend, and prosecute career criminals and to incarcerate them for extended terms; and, in the case of violent career criminals, such extended terms must include substantial mandatory minimum terms of imprisonment.

**History.**—s. 3, ch. 88-131; s. 4, ch. 95-182.

**775.0842 Persons subject to career criminal prosecution efforts.**—A person who is under arrest for the commission, attempted commission, or conspiracy to commit any felony in this state shall be the subject of career criminal prosecution efforts provided that such person qualifies as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, under s. 775.084.

**History.**—s. 4, ch. 88-131; s. 2, ch. 89-280; s. 5, ch. 95-182; s. 46, ch. 96-388.

**775.0843 Policies to be adopted for career criminal cases.**—

(1) Criminal justice agencies shall employ enhanced law enforcement management efforts and resources for the investigation, apprehension, and prosecution of career criminals. Each state attorney, sheriff, and the police chief of each municipality shall provide for or participate in a career criminal prosecution program to coordinate the efforts contemplated by this section and ss. 775.0841 and 775.0842. Enhanced law enforcement efforts and resources include, but are not limited to:

(a) Assignment of highly qualified investigators and prosecutors to career criminal cases.

(b) Significant reduction of caseloads for investigators and prosecutors assigned to career criminal cases.

(c) Coordination with federal, state, and local criminal justice agencies to facilitate the collection and dissemination of criminal investigative and intelligence information relating to those persons meeting the criteria of a career criminal.

(2) Each state attorney's office shall establish a career criminal prosecution unit and adopt and implement policies based on the following guidelines:

(a) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant meeting career criminal criteria.

(b) A plea of guilty or a trial conviction shall be sought on each offense charged in the accusatory pleadings against an individual meeting career criminal criteria.

(c) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charges against an individual meeting career criminal criteria.

(d) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe sanction authorized upon a person convicted after prosecution as a career criminal.

(3) This section does not prohibit a plea agreement in the interest of justice when there are codefendants and the prosecuting attorney determines that the information or testimony of the defendant making the agreement is necessary for the conviction of one or more of the other codefendants. The court may condition its acceptance of such plea agreement on the provision of such information or testimony by such defendant.

(4) Law enforcement agencies shall employ enhanced law enforcement management efforts and resources in the investigation, apprehension, and prosecution of career criminals. Enhanced law enforcement efforts and resources include, but are not limited to:

(a) Crime analysis, consisting of the timely collection and study of local crime data to:

1. Identify evolving or existing crime patterns involving career criminals.

2. Provide investigative leads.

3. Isolate and identify geographical areas or population groups experiencing severe crime problems in order to improve crime prevention efforts.

4. Provide supporting data for improved allocation of overall law enforcement agency resources.

(b) Improved management of investigative operations involving use of information resulting from crime analysis, which may include participation in multijurisdictional investigative and mutual-aid units and measures to increase continuity of investigative efforts from the initial response through the arrest and prosecution of the offender.

(5) Each career criminal apprehension program shall concentrate on the identification and arrest of career criminals and the support of subsequent prosecution. The determination of which suspected felony offenders shall be the subject of career criminal apprehension efforts shall be made in accordance with written target selection criteria selected by the individual law

enforcement agency and state attorney consistent with the provisions of this section and s. 775.0842.

(6) Each career criminal apprehension program, as one of its functions, shall maintain coordination with the prosecutor assigned to each case resulting from its efforts. This coordination shall include, but is not limited to, case preparation, processing, and adjudication.

**History.**—s. 5, ch. 88-131; s. 3, ch. 89-280; s. 6, ch. 95-182; s. 6, ch. 2011-200.

**775.08435 Prohibition on withholding adjudication in felony cases.**—

(1) Notwithstanding the provisions of s. 948.01, the court may not withhold adjudication of guilt upon the defendant for:

(a) Any capital, life, or first degree felony offense.

(b) A second degree felony offense unless:

1. The state attorney requests in writing that adjudication be withheld; or

2. The court makes written findings that the withholding of adjudication is reasonably justified based on circumstances or factors in accordance with those set forth in s. 921.0026.

Notwithstanding any provision of this section, no adjudication of guilt shall be withheld for a second degree felony offense if the defendant has a prior withholding of adjudication for a felony that did not arise from the same transaction as the current felony offense.

(c) A third degree felony offense if the defendant has a prior withholding of adjudication for a felony offense that did not arise from the same transaction as the current felony offense unless:

1. The state attorney requests in writing that adjudication be withheld; or

2. The court makes written findings that the withholding of adjudication is reasonably justified based on circumstances or factors in accordance with those set forth in s. 921.0026.

Notwithstanding any provision of this section, no adjudication of guilt shall be withheld for a third degree felony offense if the defendant has two or more prior withholdings of adjudication for a felony that did not arise from the same transaction as the current felony offense.

(2) This section does not apply to any adjudication or withholding of adjudication under chapter 985.

(3) The withholding of adjudication in violation of this section is subject to appellate review under chapter 924.

**History.**—s. 1, ch. 2004-60.

**775.0844 White Collar Crime Victim Protection Act.**—

(1) This section may be cited as the “White Collar Crime Victim Protection Act.”

(2) Due to the frequency with which victims, particularly elderly victims, are deceived and cheated by criminals who commit nonviolent frauds and swindles, frequently through the use of the

Internet and other electronic technology and frequently causing the loss of substantial amounts of property, it is the intent of the Legislature to enhance the sanctions imposed for nonviolent frauds and swindles, protect the public's property, and assist in prosecuting white collar criminals.

(3) As used in this section, "white collar crime" means:

(a) The commission of, or a conspiracy to commit, any felony offense specified in:

1. Chapter 560, relating to the Money Transmitters' Code.
2. Chapter 812, relating to theft, robbery, and related crimes.
3. Chapter 815, relating to computer-related crimes.
4. Chapter 817, relating to fraudulent practices.
5. Chapter 825, relating to abuse, neglect, and exploitation of elderly persons and disabled adults.
6. Chapter 831, relating to forgery and counterfeiting.
7. Chapter 832, relating to the issuance of worthless checks and drafts.
8. Chapter 838, relating to bribery and misuse of public office.
9. Chapter 839, relating to offenses by public officers and employees.
10. Chapter 895, relating to offenses concerning racketeering and illegal debts.
11. Chapter 896, relating to offenses related to financial transactions.

(b) A felony offense that is committed with intent to defraud or that involves a conspiracy to defraud.

(c) A felony offense that is committed with intent to temporarily or permanently deprive a person of his or her property or that involves a conspiracy to temporarily or permanently deprive a person of his or her property.

(d) A felony offense that involves or results in the commission of fraud or deceit upon a person or that involves a conspiracy to commit fraud or deceit upon a person.

(4) As used in this section, "aggravated white collar crime" means engaging in at least two white collar crimes that have the same or similar intents, results, accomplices, victims, or methods of commission, or that are otherwise interrelated by distinguishing characteristics and are not isolated incidents, provided that at least one of such crimes occurred after the effective date of this act.

(5) Any person who commits an aggravated white collar crime as defined in this section and in so doing either:

(a) Victimizes 10 or more elderly persons, as defined in s. 825.101;

(b) Victimizes 20 or more persons, as defined in s. 1.01; or

(c) Victimizes the State of Florida, any state agency, any of the state's political subdivisions, or any agency of the state's political subdivisions,

and thereby obtains or attempts to obtain $50,000 or more, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Notwithstanding any other provision of chapter 921 or any other law, an aggravated white collar crime shall be ranked within the offense severity ranking chart at offense severity level 9.

(7) In addition to a sentence otherwise authorized by law, a person convicted of an aggravated white collar crime may pay a fine of $500,000 or double the value of the pecuniary gain or loss, whichever is greater.

(8) A person convicted of an aggravated white collar crime under this section is liable for all court costs and shall pay restitution to each victim of the crime, regardless of whether the victim is named in the information or indictment. As used in this subsection, “victim” means a person directly and proximately harmed as a result of the commission of the offense for which restitution may be ordered, including any person directly harmed by the defendant’s criminal conduct in the course of the commission of the aggravated white collar crime. The court shall hold a hearing to determine the identity of qualifying victims and shall order the defendant to pay restitution based on his or her ability to pay, in accordance with this section and s. 775.089.

(a) The court shall make the payment of restitution a condition of any probation granted to the defendant by the court. Notwithstanding any other law, the court may order continued probation for a defendant convicted under this section for up to 10 years or until full restitution is made to the victim, whichever occurs earlier.

(b) The court retains jurisdiction to enforce its order to pay fines or restitution. The court may initiate proceedings against a defendant for a violation of probation or for contempt of court if the defendant willfully fails to comply with a lawful order of the court.

**History.**—s. 1, ch. 2001-99; s. 6, ch. 2014-200.

**775.0845 Wearing mask while committing offense; reclassification.**—The felony or misdemeanor degree of any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his or her identity.

(1)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(2)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under former s. 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

**History.**—s. 2, ch. 81-249; s. 21, ch. 95-184; s. 1, ch. 97-39; s. 1185, ch. 97-102; s. 13, ch. 97-194; s. 25, ch. 2009-20.

**775.0846 Possession of bulletproof vest while committing certain offenses.**—

(1) As used in this section, the term "bulletproof vest" means a bullet-resistant soft body armor providing, as a minimum standard, the level of protection known as "threat level I," which shall mean at least seven layers of bullet-resistant material providing protection from three shots of 158-grain lead ammunition fired from a .38 caliber handgun at a velocity of 850 feet per second.

(2) No person may possess a bulletproof vest while, acting alone or with one or more other persons, he or she commits or attempts to commit any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, criminal gang-related offense under chapter 874, controlled substance offense under chapter 893, or aircraft piracy and such possession is in the course of and in furtherance of any such crime.

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**History.**—s. 1, ch. 85-29; s. 1186, ch. 97-102; s. 3, ch. 2008-238.

**775.0847 Possession or promotion of certain images of child pornography; reclassification.**—

(1) For purposes of this section:

(a) "Child" means any person, whose identity is known or unknown, less than 18 years of age.

(b) "Child pornography" means any image depicting a minor engaged in sexual conduct.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(e) "Sexual bestiality" means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree as provided in subsection (3) if:

(a) The offender possesses 10 or more images of any form of child pornography regardless of content; and

(b) The content of at least one image contains one or more of the following:

1. A child who is younger than the age of 5.
2. Sadomasochistic abuse involving a child.
3. Sexual battery involving a child.
4. Sexual bestiality involving a child.
5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

**History.**—s. 3, ch. 2007-143.

**775.0849 Public service announcements; ch. 99-188.**—In order to inform the public and to deter and prevent crime in the state, the Executive Office of the Governor shall place public service announcements in visible local media throughout the state explaining the penalties provided in chapter 99-188, Laws of Florida.

**History.**—s. 12, ch. 99-188; s. 1, ch. 2002-208; s. 1, ch. 2002-209; s. 1, ch. 2002-210; s. 1, ch. 2002-211; s. 1, ch. 2002-212.

**775.085 Evidencing prejudice while committing offense; reclassification.**—

(1)(a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on the

race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim:

1. A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
2. A misdemeanor of the first degree is reclassified to a felony of the third degree.
3. A felony of the third degree is reclassified to a felony of the second degree.
4. A felony of the second degree is reclassified to a felony of the first degree.
5. A felony of the first degree is reclassified to a life felony.

(b) As used in paragraph (a), the term:

1. "Advanced age" means that the victim is older than 65 years of age.
2. "Homeless status" means that the victim:

a. Lacks a fixed, regular, and adequate nighttime residence; or

b. Has a primary nighttime residence that is:

(I) A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

(II) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) A person or organization that establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or in equity. Upon prevailing in such civil action, the plaintiff may recover reasonable attorney fees and costs.

(3) It is an essential element of this section that the record reflect that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated in this section.

**History.**—s. 1, ch. 89-133; s. 1, ch. 91-83; s. 1, ch. 98-83; s. 1, ch. 99-172; s. 1, ch. 2010-46; s. 2, ch. 2016-81.

**775.0861 Offenses against persons on the grounds of religious institutions; reclassification.**—

(1) For purposes of this section, the term:

(a) "Religious institution" is as defined in s. 496.404.

(b) "Religious service" is a religious ceremony, prayer, or other activity according to a form and order prescribed for worship, including a service related to a particular occasion.

(2) The felony or misdemeanor degree of any violation of:

(a) Section 784.011, relating to assault;

(b) Section 784.021, relating to aggravated assault;

(c) Section 784.03, relating to battery;

(d) Section 784.041, relating to felony battery;

(e) A statute defining any offense listed in s. 775.084(1)(b)1.; or

(f) Any other statute defining an offense that involves the use or threat of physical force or violence against any individual

shall be reclassified as provided in this section if the offense is committed on the property of a religious institution while the victim is on the property for the purpose of participating in or attending a religious service.

(3)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921, such offense is ranked in level 2 of the offense severity ranking chart.

(c) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(d) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(e) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

**History.**—s. 2, ch. 2005-77.

**775.0862 Sexual offenses against students by authority figures; reclassification.**—

(1) As used in this section, the term:

(a) "Authority figure" means a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

(b) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37. The term does not include facilities dedicated exclusively to the education of adults.

(c) "Student" means a person younger than 18 years of age who is enrolled at a school.

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(h)1.a., unless the offense is a violation of s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(c) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

**History.**—s. 2, ch. 2014-202; s. 91, ch. 2015-2; s. 69, ch. 2016-24; s. 10, ch. 2016-104.

**775.0863 Evidencing prejudice while committing offense against person with mental or physical disability; reclassification.**—

(1)(a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on a mental or physical disability of the victim:

1. A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
2. A misdemeanor of the first degree is reclassified to a felony of the third degree.
3. A felony of the third degree is reclassified to a felony of the second degree.
4. A felony of the second degree is reclassified to a felony of the first degree.
5. A felony of the first degree is reclassified to a life felony.

(b) As used in paragraph (a), the term "mental or physical disability" means a condition of mental or physical incapacitation due to a developmental disability, organic brain damage, or mental illness, and one or more mental or physical limitations that restrict a person's ability to perform the normal activities of daily living.

(2) A person or organization that establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or in equity. Upon prevailing in such civil action, the plaintiff may recover reasonable attorney fees and costs.

(3) It is an essential element of this section that the record reflect that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated in this section.

**History.**—s. 3, ch. 2016-81.

**775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.**—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission

of such felony the defendant carries, displays, uses, threatens to use, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(2)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Aircraft piracy;

j. Aggravated child abuse;

k. Aggravated abuse of an elderly person or disabled adult;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Carjacking;

n. Home-invasion robbery;

o. Aggravated stalking;

p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

q. Possession of a firearm by a felon

and during the commission of the offense, such person actually possessed a “firearm” or “destructive device” as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a “firearm” or “destructive device” during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-p., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a “firearm” or “destructive device” as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-p., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a “firearm” or “destructive device” as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be

imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who actually possess, carry, display, use, threaten to use, or attempt to use firearms or destructive devices be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(3)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a firearm is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking; or

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law, and the

minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

(4) For purposes of imposition of minimum mandatory sentencing provisions of this section, with respect to a firearm, the term "possession" is defined as carrying it on the person. Possession may also be proven by demonstrating that the defendant had the firearm within immediate physical reach with ready access with the intent to use the firearm during the commission of the offense, if proven beyond a reasonable doubt.

(5) This section does not apply to law enforcement officers or to United States military personnel who are performing their lawful duties or who are traveling to or from their places of employment or assignment to perform their lawful duties.

**History.**—s. 9, ch. 74-383; s. 1, ch. 75-7; s. 3, ch. 75-298; s. 2, ch. 76-75; s. 51, ch. 83-215; s. 3, ch. 89-306; s. 2, ch. 90-124; s. 2, ch. 90-176; s. 19, ch. 95-184; s. 9, ch. 95-195; s. 15, ch. 96-322; s. 55, ch. 96-388; s. 14, ch. 97-194; s. 1, ch. 99-12; s. 88, ch. 2000-158; s. 5, ch. 2000-320; s. 11, ch. 2005-128; s. 4, ch. 2011-200; s. 1, ch. 2012-74; s. 3, ch. 2014-176; s. 2, ch. 2014-195; s. 1, ch. 2016-7.

**775.0871 Public service announcements.**—In order to inform the public and to deter and prevent crime, the Office of the Governor shall place public service announcements in areas having the highest representation in the correctional system explaining the penalties provided in this act. In addition, the Office of the Governor shall place public service announcements directed to areas of the state which have the highest rate of firearms-related offenses to maximize the preventative aspects of advertising the penalties imposed by this act.

**History.**—s. 4, ch. 99-12.

**775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.**—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**—s. 2, ch. 89-157; s. 17, ch. 93-406; s. 22, ch. 95-184; s. 56, ch. 96-388; s. 15, ch. 97-194.

**775.0877 Criminal transmission of HIV; procedures; penalties.**—

(1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another:

(a) Section 794.011, relating to sexual battery;

(b) Section 826.04, relating to incest;

(c) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;

(d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d), relating to assault;

(e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b), relating to aggravated assault;

(f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c), relating to battery;

(g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a), relating to aggravated battery;

(h) Section 827.03(2)(c), relating to child abuse;

(i) Section 827.03(2)(a), relating to aggravated child abuse;

(j) Section 825.102(1), relating to abuse of an elderly person or disabled adult;

(k) Section 825.102(2), relating to aggravated abuse of an elderly person or disabled adult;

(l) Section 827.071, relating to sexual performance by person less than 18 years of age;

(m) Sections 796.07 and 796.08, relating to prostitution;

(n) Section 381.0041(11)(b), relating to donation of blood, plasma, organs, skin, or other human tissue; or

(o) Sections 787.06(3)(b), (d), (f), and (g), relating to human trafficking,

the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense.

(2) The results of the HIV test must be disclosed under the direction of the Department of Health, to the offender who has been convicted of or pled nolo contendere or guilty to an offense specified in subsection (1), the public health agency of the county in which the conviction occurred and, if different, the county of residence of the offender, and, upon request pursuant to s. 960.003, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor.

(3) An offender who has undergone HIV testing pursuant to subsection (1), and to whom positive test results have been disclosed pursuant to subsection (2), who commits a second or subsequent offense enumerated in paragraphs (1)(a)-(n), commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime enumerated in paragraphs (1)(a)-(n).

(4) An offender may challenge the positive results of an HIV test performed pursuant to this section and may introduce results of a backup test performed at her or his own expense.

(5) Nothing in this section requires that an HIV infection have occurred in order for an offender to have committed criminal transmission of HIV.

(6) For an alleged violation of any offense enumerated in paragraphs (1)(a)-(n) for which the consent of the victim may be raised as a defense in a criminal prosecution, it is an affirmative defense to a charge of violating this section that the person exposed knew that the offender was infected with HIV, knew that the action being taken could result in transmission of the HIV infection, and consented to the action voluntarily with that knowledge.

**History.**—s. 8, ch. 93-227; s. 7, ch. 96-221; s. 2, ch. 96-293; s. 16, ch. 96-322; s. 4, ch. 97-37; s. 1811, ch. 97-102; s. 95, ch. 99-3; s. 291, ch. 99-8; s. 2, ch. 2010-64; s. 4, ch. 2010-113; s. 1, ch. 2010-117; s. 11, ch. 2012-155; s. 127, ch. 2012-184; s. 17, ch. 2014-160; s. 32, ch. 2016-24.

**775.089 Restitution.**—

(1)(a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for:

1. Damage or loss caused directly or indirectly by the defendant's offense; and
2. Damage or loss related to the defendant's criminal episode,

unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund pursuant to chapter 960. Payment of an award by the Crimes Compensation Trust Fund shall create an order of restitution to the Crimes Compensation Trust Fund, unless specifically waived in accordance with subparagraph (b)1.

(b)1. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in this section, it shall state on the record in detail the reasons therefor.

2. An order of restitution entered as part of a plea agreement is as definitive and binding as any other order of restitution, and a statement to such effect must be made part of the plea agreement. A plea agreement may contain provisions that order restitution relating to criminal offenses committed by the defendant to which the defendant did not specifically enter a plea.

(c) The term "victim" as used in this section and in any provision of law relating to restitution means:

1. Each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense. The term includes governmental entities and political subdivisions, as those terms are defined in s. 11.45, when such entities are a direct victim of the defendant's offense or criminal episode and not merely providing public services in response to the offense or criminal episode.

2. The term also includes the victim's trade association if the offense is a violation of s. 540.11(3)(a)3. involving the sale, or possession for purposes of sale, of physical articles and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect restitution on the victim's behalf. The restitution obligation in this subparagraph relating to violations of s. 540.11(3)(a)3. applies only to physical articles and does not apply to electronic articles or digital files that are distributed or made available online. As used in this subparagraph, the term "trade association" means an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.

(2)(a) When an offense has resulted in bodily injury to a victim, a restitution order entered under subsection (1) shall require that the defendant:

1. Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.

2. Pay the cost of necessary physical and occupational therapy and rehabilitation.

3. Reimburse the victim for income lost by the victim as a result of the offense.

4. In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.

(b) When an offense has not resulted in bodily injury to a victim, a restitution order entered under subsection (1) may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.

(3)(a) The court may require that the defendant make restitution under this section within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation if probation is ordered;

2. Five years after the end of the term of imprisonment imposed if the court does not order probation; or

3. Five years after the date of sentencing in any other case.

(c) Notwithstanding this subsection, a court that has ordered restitution for a misdemeanor offense shall retain jurisdiction for the purpose of enforcing the restitution order for any period, not to exceed 5 years, that is pronounced by the court at the time restitution is ordered.

(d) If not otherwise provided by the court under this subsection, restitution must be made immediately.

If the restitution ordered by the court is not made within the time period specified, the court may continue the restitution order through the duration of the civil judgment provision set forth in subsection (5) and as provided in s. 55.10.

(4) If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Florida Commission on Offender Review may revoke parole, if the defendant fails to comply with such order.

(5) An order of restitution may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action. The outstanding unpaid amount of the order of restitution bears interest in accordance with s. 55.03, and, when properly recorded, becomes a lien on real estate owned by the defendant. If civil enforcement is necessary, the defendant shall be liable for costs and attorney’s fees incurred by the victim in enforcing the order.

(6)(a) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense.

(b) The criminal court, at the time of enforcement of the restitution order, shall consider the financial resources of the defendant, the present and potential future financial needs and earning ability of the defendant and his or her dependents, and such other factors which it deems appropriate.

(7) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant and the financial needs of the defendant and his or her dependents is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(8) The conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder will not bar any subsequent civil remedy or recovery, but the amount of such restitution shall be set off against any subsequent independent civil recovery.

(9) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.

(10)(a) Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.

(b) The restitution obligation is not subject to discharge in bankruptcy, whether voluntary or involuntary, or to any other statutory or common-law proceeding for relief against creditors.

(11)(a) The court may order the clerk of the court to collect and dispense restitution payments in any case.

(b) The court may order the Department of Corrections to collect and dispense restitution and other payments from persons remanded to its custody or supervision.

(12)(a) *Issuance of income deduction order with an order for restitution.*—

1. Upon the entry of an order for restitution, the court shall enter a separate order for income deduction if one has not been entered.

2. The income deduction order shall direct a payor to deduct from all income due and payable to the defendant the amount required by the court to meet the defendant's obligation.

3. The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.

4. When the court orders the income deduction, the court shall furnish to the defendant a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state:

a. All fees or interest which shall be imposed.

b. The total amount of income to be deducted for each pay period.

c. That the income deduction order applies to current and subsequent payors and periods of employment.

d. That a copy of the income deduction order will be served on the defendant's payor or payors.

e. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed.

f. That the defendant is required to notify the clerk of court within 7 days after changes in the defendant's address, payors, and the addresses of his or her payors.

(b) *Enforcement of income deduction orders.*—

1. The clerk of court or probation officer shall serve an income deduction order and the notice to payor on the defendant's payor unless the defendant has applied for a hearing to contest the enforcement of the income deduction order.

2.a. Service by or upon any person who is a party to a proceeding under this subsection shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

b. Service upon the defendant's payor or successor payor under this subsection shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

3. The defendant, within 15 days after having an income deduction order entered against him or her, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing shall stay the service of an income deduction order on all payors of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

4. The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:

a. Require the payor to deduct from the defendant's income the amount specified in the income deduction order and to pay that amount to the clerk of court.

b. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor.

c. Instruct the payor to forward within 2 days after each payment date to the clerk of court the amount deducted from the defendant's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.

d. Specify that, if a payor fails to deduct the proper amount from the defendant's income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney's fees.

e. Provide that the payor may collect up to $5 against the defendant's income to reimburse the payor for administrative costs for the first income deduction and up to $2 for each deduction thereafter.

f. State that the income deduction order and the notice to payor are binding on the payor until further notice by the court or until the payor no longer provides income to the defendant.

g. Instruct the payor that, when he or she no longer provides income to the defendant, the payor shall notify the clerk of court and shall also provide the defendant's last known address and the name and address of the defendant's new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

h. State that the payor shall not discharge, refuse to employ, or take disciplinary action against the defendant because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

i. Inform the payor that, when he or she receives income deduction orders requiring that the income of two or more defendants be deducted and sent to the same clerk of court, the payor may combine the amounts that are to be paid to the depository in a single payment as long as he or she identifies that portion of the payment attributable to each defendant.

j. Inform the payor that if the payor receives more than one income deduction order against the same defendant, he or she shall contact the court for further instructions.

5. The clerk of court shall enforce income deduction orders against the defendant's successor payor who is located in this state in the same manner prescribed in this subsection for the enforcement of an income deduction order against an original payor.

6. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation.

7. When a payor no longer provides income to a defendant, the payor shall notify the clerk of court and shall provide the defendant's last known address and the name and address of the

defendant's new payor, if known. A payor who violates this provision is subject to a civil penalty not to exceed $250 for the first violation or $500 for a subsequent violation.

**History.**—s. 1, ch. 77-150; s. 288, ch. 79-400; s. 5, ch. 84-363; s. 2, ch. 88-96; s. 38, ch. 88-122; s. 10, ch. 89-526; s. 2, ch. 92-107; s. 1, ch. 93-37; s. 3, ch. 93-69; s. 19, ch. 94-342; s. 1, ch. 95-160; s. 1187, ch. 97-102; s. 1, ch. 99-358; s. 1, ch. 2012-17; s. 13, ch. 2014-191; s. 1, ch. 2015-132.

**775.091 Public service.**—In addition to any punishment, the court may order the defendant to perform a specified public service.

**History.**—s. 2, ch. 77-150.

**775.13 Registration of convicted felons, exemptions; penalties.**—

(1) As used in this section, the term "convicted" means, with respect to a person's felony offense, a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) Any person who has been convicted of a felony in any court of this state shall, within 48 hours after entering any county in this state, register with the sheriff of said county, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name, aliases, if any, address, and occupation. If the felony conviction is for an offense that was found, pursuant to s. 874.04, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the registrant shall identify himself or herself as such an offender. The Department of Law Enforcement, in consultation with appropriate local law enforcement agencies, may develop standardized practices for the inclusion of gang affiliation at the time of offender registration.

(3) Any person who has been convicted of a crime in any federal court or in any court of a state other than Florida, or of any foreign state or country, which crime if committed in Florida would be a felony, shall forthwith within 48 hours after entering any county in this state register with the sheriff of said county in the same manner as provided for in subsection (2).

(4) This section does not apply to an offender:

(a) Who has had his or her civil rights restored;

(b) Who has received a full pardon for the offense for which convicted;

(c) Who has been lawfully released from incarceration or other sentence or supervision for a felony conviction for more than 5 years prior to such time for registration, unless the offender is a fugitive from justice on a felony charge or has been convicted of any offense since release from such incarceration or other sentence or supervision;

(d) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the presence of the offender in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation;

(e) Who is a sexual predator and has registered as required under s. 775.21;

(f) Who is a sexual offender and has registered as required in s. 943.0435 or s. 944.607; or

(g) Who is a career offender who has registered as required in s. 775.261 or s. 944.609.

(5) The failure of any such convicted felon to comply with this section:

(a) With regard to any felon not listed in paragraph (b), constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) With regard to any felon who has been found, pursuant to s. 874.04, to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Nothing in this section shall be construed to affect any law of this state relating to registration of criminals where the penalties for registration, notification, or reporting obligations are in addition to, or in excess of, those imposed by this section.

**History.**—ss. 1, 2, 3, 4, 5, 6, 7, ch. 57-19; s. 1, ch. 57-371; s. 1, ch. 63-191; s. 1, ch. 65-453; s. 3, ch. 67-2207; ss. 20, 33, 35, ch. 69-106; s. 699, ch. 71-136; s. 11, ch. 77-120; s. 1, ch. 77-174; s. 18, ch. 79-3; s. 21, ch. 79-8; s. 161, ch. 83-216; s. 63, ch. 96-388; s. 4, ch. 97-299; s. 2, ch. 98-81; s. 1, ch. 2000-328; s. 1, ch. 2002-266; s. 5, ch. 2004-371; s. 1, ch. 2008-238; s. 43, ch. 2016-24.

**775.14 Limitation on withheld sentences.**—Any person receiving a withheld sentence upon conviction for a criminal offense, and such withheld sentence has not been altered for a period of 5 years, shall not thereafter be sentenced for the conviction of the same crime for which sentence was originally withheld.

**History.**—s. 1, ch. 57-284.

**775.15 Time limitations; general time limitations; exceptions.**—

(1) A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time. If the death penalty is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, all crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony of the first degree must be commenced within 4 years after it is committed.

(b) A prosecution for any other felony must be commenced within 3 years after it is committed.

(c) A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.

(d) A prosecution for a misdemeanor of the second degree or a noncriminal violation must be commenced within 1 year after it is committed.

(3) An offense is committed either when every element has occurred or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(4)(a) Prosecution on a charge on which the defendant has previously been arrested or served with a summons is commenced by the filing of an indictment, information, or other charging document.

(b) A prosecution on a charge on which the defendant has not previously been arrested or served with a summons is commenced when either an indictment or information is filed, provided the capias, summons, or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. The failure to execute process on or extradite a defendant in another state who has been charged by information or indictment with a crime in this state shall not constitute an unreasonable delay.

(c) If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended 3 months from the time the indictment or information is dismissed or set aside.

(5) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state. This provision shall not extend the period of limitation otherwise applicable by more than 3 years, but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.

(6) A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.

(7) A prosecution for a felony that resulted in injury to any person, when such felony arises from the use of a "destructive device," as defined in s. 790.001, may be commenced within 10 years.

(8) A prosecution for a felony violation of chapter 517 or s. 409.920 must be commenced within 5 years after the violation is committed.

(9) A prosecution for a felony violation of chapter 403 must be commenced within 5 years after the date of discovery of the violation.

(10) A prosecution for a felony violation of s. 825.102 or s. 825.103 must be commenced within 5 years after it is committed.

(11) A prosecution for a felony violation of ss. 440.105 and 817.234 must be commenced within 5 years after the violation is committed.

(12) If the period prescribed in subsection (2), subsection (8), subsection (9), subsection (10), or subsection (11) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense, a material element of which is either fraud or a breach of fiduciary obligation, within 1 year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than 3 years.

(b) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment, within 2 years from the time he or she leaves public office or employment, or during any time permitted by any other part of this section, whichever time is greater.

(13)(a) If the victim of a violation of s. 794.011, former s. 794.05, Florida Statutes 1995, s. 800.04, s. 826.04, or s. 847.0135(5) is under the age of 18, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the state attorney for the judicial circuit in which the alleged violation occurred. If the offense is a first or second degree felony violation of s. 794.011, and the offense is reported within 72 hours after its commission, the prosecution for such offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before December 31, 1984.

(b) If the offense is a first degree felony violation of s. 794.011 and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003.

(c) If the offense is a violation of s. 794.011 and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2010.

(14)(a) A prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 years of age or older at the time of the offense and the offense is reported to a law

enforcement agency within 72 hours after commission of the offense, may be commenced at any time.

(b) Except as provided in paragraph (a) or paragraph (13)(b), a prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 years of age or older at the time of the offense, must be commenced within 8 years after the violation is committed. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2015.

(15)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. An offense of sexual battery under chapter 794.
2. A lewd or lascivious offense under s. 800.04 or s. 825.1025.

(b) This subsection applies to any offense that is not otherwise barred from prosecution between July 1, 2004, and June 30, 2006.

(16)(a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

1. Aggravated battery or any felony battery offense under chapter 784.
2. Kidnapping under s. 787.01 or false imprisonment under s. 787.02.
3. An offense of sexual battery under chapter 794.
4. A lewd or lascivious offense under s. 800.04, s. 825.1025, or s. 847.0135(5).
5. A burglary offense under s. 810.02.
6. A robbery offense under s. 812.13, s. 812.131, or s. 812.135.
7. Carjacking under s. 812.133.
8. Aggravated child abuse under s. 827.03.

(b) This subsection applies to any offense that is not otherwise barred from prosecution on or after July 1, 2006.

(17) In addition to the time periods prescribed in this section, a prosecution for video voyeurism in violation of s. 810.145 may be commenced within 1 year after the date on which the victim of video voyeurism obtains actual knowledge of the existence of such a recording or the date on

which the recording is confiscated by a law enforcement agency, whichever occurs first. Any dissemination of such a recording before the victim obtains actual knowledge thereof or before its confiscation by a law enforcement agency does not affect any provision of this subsection.

(18) If the offense is a violation of s. 800.04(4) or (5) and the victim was under 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time, unless, at the time of the offense, the offender is less than 18 years of age and is no more than 4 years older than the victim. This subsection applies to an offense that is not otherwise barred from prosecution on or before October 1, 2014.

(19) A prosecution for a violation of s. 787.06 may be commenced at any time. This subsection applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2014.

**History.**—s. 78, Feb. 10, 1832; s. 1, ch. 4915, 1901; RS 2357; GS 3181, 3182; RGS 5011, 5012; CGL 7113, 7114; s. 1, ch. 16962, 1935; s. 10, ch. 26484, 1951; s. 109, ch. 70-339; s. 10, ch. 74-383; s. 1, ch. 76-275; s. 1, ch. 77-174; s. 12, ch. 78-435; s. 6, ch. 84-86; s. 1, ch. 84-550; s. 10, ch. 85-63; s. 4, ch. 89-143; s. 2, ch. 90-120; s. 2, ch. 91-258; s. 16, ch. 93-156; s. 17, ch. 95-158; s. 139, ch. 95-418; s. 1, ch. 96-145; s. 3, ch. 96-280; s. 3, ch. 96-322; s. 4, ch. 96-409; s. 1, ch. 97-36; s. 1, ch. 97-90; s. 1812, ch. 97-102; s. 1, ch. 97-104; s. 17, ch. 98-174; s. 7, ch. 99-201; s. 5, ch. 99-204; s. 3, ch. 2000-246; s. 1, ch. 2001-102; s. 1, ch. 2002-168; s. 1, ch. 2003-116; s. 1, ch. 2004-94; s. 1, ch. 2005-110; s. 1, ch. 2006-266; s. 15, ch. 2008-172; s. 2, ch. 2010-54; s. 6, ch. 2011-220; s. 2, ch. 2014-4; s. 6, ch. 2014-160; s. 2, ch. 2015-133; s. 30, ch. 2016-24.

**Note.**—Former ss. 932.05, 932.06, 915.03, 932.465.

**775.16 Drug offenses; additional penalties.**—In addition to any other penalty provided by law, a person who has been convicted of sale of or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, if such offense is a felony, or who has been convicted of an offense under the laws of any state or country which, if committed in this state, would constitute the felony of selling or trafficking in, or conspiracy to sell or traffic in, a controlled substance under chapter 893, is:

(1) Disqualified from applying for employment by any agency of the state, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Florida Commission on Offender Review, or by law; or

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanctions. The person under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved by the Department of Children and Families, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Florida Commission on Offender Review, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections.

(2) Disqualified from applying for a license, permit, or certificate required by any agency of the state to practice, pursue, or engage in any occupation, trade, vocation, profession, or business, unless:

(a) The person has completed all sentences of imprisonment or supervisory sanctions imposed by the court, by the Florida Commission on Offender Review, or by law;

(b) The person has complied with the conditions of subparagraphs 1. and 2. which shall be monitored by the Department of Corrections while the person is under any supervisory sanction. If the person fails to comply with provisions of these subparagraphs by either failing to maintain treatment or by testing positive for drug use, the department shall notify the licensing, permitting, or certifying agency, which may refuse to reissue or reinstate such license, permit, or certification. The licensee, permittee, or certificateholder under supervision may:

1. Seek evaluation and enrollment in, and once enrolled maintain enrollment in until completion, a drug treatment and rehabilitation program which is approved or regulated by the Department of Children and Families, unless it is deemed by the program that the person does not have a substance abuse problem. The treatment and rehabilitation program may be specified by:

a. The court, in the case of court-ordered supervisory sanctions;

b. The Florida Commission on Offender Review, in the case of parole, control release, or conditional release; or

c. The Department of Corrections, in the case of imprisonment or any other supervision required by law.

2. Submit to periodic urine drug testing pursuant to procedures prescribed by the Department of Corrections. If the person is indigent, the costs shall be paid by the Department of Corrections; or

(c) The person has successfully completed an appropriate program under the Correctional Education Program.

The provisions of this section do not apply to any of the taxes, fees, or permits regulated, controlled, or administered by the Department of Revenue in accordance with the provisions of s. 213.05.

**History.**—s. 2, ch. 90-266; s. 21, ch. 92-310; s. 13, ch. 95-325; s. 292, ch. 99-8; s. 296, ch. 2014-19; s. 14, ch. 2014-191.

**775.21 The Florida Sexual Predators Act.**—

(1) SHORT TITLE.—This section may be cited as "The Florida Sexual Predators Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Change in status at an institution of higher education" means the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

(b) "Chief of police" means the chief law enforcement officer of a municipality.

(c) "Child care facility" has the same meaning as provided in s. 402.302.

(d) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a permanent, temporary, or transient residence.

(e) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(f) "Department" means the Department of Law Enforcement.

(g) "Electronic mail address" has the same meaning as provided in s. 668.602.

(h) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(i) "Institution of higher education" means a career center, a community college, a college, a state university, or an independent postsecondary institution.

(j) "Internet identifier" includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, personal identification number (PIN), URL, or application software used for utility, banking, retail, or medical purposes. Voluntary

disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

(k) "Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

(l) "Professional license" means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.

(m) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(n) "Transient residence" means a county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

(o) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where

the offender establishes or maintains a permanent, temporary, or transient residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, "Sexual Predator Registration." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses and all Internet identifiers required to be provided pursuant to subparagraph (g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (g)5.; employment information required to be provided pursuant to subparagraph (g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the

department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department pursuant to subparagraph (g)5. the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

c. A sexual predator shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent, temporary, or transient residence; name; vehicles owned; electronic mail addresses; Internet identifiers; home telephone numbers and cellular telephone numbers; and employment information and any change in status at an institution of higher education, required to be provided pursuant to subparagraph (g)5., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1. must be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the

sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's

office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph 2.b. is punishable as provided in subsection (10).

5.a. A sexual predator shall register all electronic mail addresses and Internet identifiers with the department through the department's online system or in person at the sheriff's office before using such electronic mail addresses and Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in the

custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this sub-subparagraph shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all electronic mail address and Internet identifier information, home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

(h) The department shall notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which

the sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department may disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator shall maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator,

the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed child care facility, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current permanent, temporary, and transient addresses, and descriptions of registered locations that have no specific street address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to subparagraph (6)(g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (6)(g)5.; date and place of any employment required to be provided pursuant to subparagraph (6)(g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

(9) IMMUNITY.—The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier information before use, all home telephone numbers and cellular telephone numbers, employment information, change in status at an institution of higher education, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where

children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(f) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

**History.**—s. 1, ch. 93-277; s. 1, ch. 95-264; s. 54, ch. 95-283; s. 61, ch. 96-388; s. 5, ch. 97-299; s. 3, ch. 98-81; s. 1, ch. 98-267; s. 1, ch. 2000-207; s. 3, ch. 2000-246; s. 113, ch. 2000-349; s. 1, ch. 2002-58; s. 1, ch. 2004-371; s. 33, ch. 2004-373; s. 3, ch. 2005-28; s. 5, ch. 2005-67; s. 1, ch. 2006-200; s. 1, ch. 2006-235; s. 2, ch. 2006-299; s. 150, ch. 2007-5; s. 9, ch. 2007-143; s. 3, ch. 2007-207; s. 1, ch. 2007-209; s. 16, ch. 2008-172; s. 2, ch. 2009-194; s. 2, ch. 2010-92; s. 2, ch. 2012-19; s. 3, ch. 2012-97; s. 59, ch. 2013-116; s. 2, ch. 2014-5; s. 18, ch. 2014-160; s. 92, ch. 2015-2; ss. 9, 66, ch. 2016-24; s. 1, ch. 2016-104.

**775.215 Residency restriction for persons convicted of certain sex offenses.**—

(1) As used in this section, the term:

(a) "Child care facility" has the same meaning as provided in s. 402.302.

(b) "Park" means all public and private property specifically designated as being used for recreational purposes and where children regularly congregate.

(c) "Playground" means a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.

(d) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37 but does not include facilities dedicated exclusively to the education of adults.

(2)(a) A person who has been convicted of a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 1,000 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this

subsection and a school, child care facility, park, or playground is subsequently established within 1,000 feet of his or her residence.

(b) A person who violates this subsection and whose conviction under s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 was classified as a felony of the first degree or higher commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates this subsection and whose conviction under s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 was classified as a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection applies to any person convicted of a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 for offenses that occur on or after October 1, 2004, excluding persons who have been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354.

(3)(a) A person who has been convicted of an offense in another jurisdiction that is similar to a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 1,000 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 1,000 feet of his or her residence.

(b) A person who violates this subsection and whose conviction in another jurisdiction resulted in a penalty that is substantially similar to a felony of the first degree or higher commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates this subsection and whose conviction in another jurisdiction resulted in a penalty that is substantially similar to a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection applies to any person convicted of an offense in another jurisdiction that is similar to a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 if such offense occurred on or after May 26, 2010, excluding persons who have been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354.

**History.**—s. 2, ch. 2004-55; s. 21, ch. 2008-172; ss. 3,18, ch. 2010-92; s. 6, ch. 2014-39.

**Note.**—Former s. 794.065.

**775.24 Duty of the court to uphold laws governing sexual predators and sexual offenders.**—

(1) The Legislature finds that, for the purpose of approving a plea agreement or for other reasons, certain courts enter orders that effectively limit or nullify requirements imposed upon sexual predators and sexual offenders pursuant to the laws of this state and prevent persons or entities from carrying out the duties imposed, or exercising the authority conferred, by such laws.

The laws relating to sexual predators and sexual offenders are substantive law. Furthermore, the Congress of the United States has expressly encouraged every state to enact such laws, and has provided that, to the extent that a state's laws do not meet certain federal requirements, the state will lose significant federal funding provided to the state for law enforcement and public safety programs. Unless a court that enters such an order determines that a person or entity is not operating in accordance with the laws governing sexual predators or sexual offenders, or that such laws or any part of such laws are unconstitutional or unconstitutionally applied, the court unlawfully encroaches on the Legislature's exclusive power to make laws and places at risk significant public interests of the state.

(2) If a person meets the criteria in this chapter for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

(3) If the court enters an order that affects an agency's performance of a duty imposed under the laws governing sexual predators or sexual offenders, or that limits the agency's exercise of authority conferred under such laws, the Legislature strongly encourages the affected agency to file a motion in the court that entered such order. The affected agency may, within 1 year after the receipt of any such order, move to modify or set aside the order or, if such order is in the nature of an injunction, move to dissolve the injunction. Grounds for granting any such motion include, but need not be limited to:

(a) The affected agency was not properly noticed.

(b) The court is not authorized to enjoin the operation of a statute that has been duly adjudged constitutional and operative unless the statute is illegally applied or unless the statute or the challenged part of it is unconstitutional on adjudicated grounds.

(c) Jurisdiction may not be conferred by consent of the parties.

(d) To the extent that the order is based upon actions the agency might take, the court's order is premature and, if and when such actions are taken, these actions may be challenged in appropriate proceedings to determine their enforceability.

(e) The injunction affects the public interest and would cause injury to the public.

(f) The order creates an unenforceable, perpetual injunction.

(g) The order seeks to restrict the agency in the performance of its duties outside the court's territorial jurisdiction.

**History.**—s. 4, ch. 98-81; s. 2, ch. 2002-58; s. 7, ch. 2004-371; s. 67, ch. 2016-24; s. 28, ch. 2016-104.

**775.25 Prosecutions for acts or omissions.**—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

**History.**—s. 5, ch. 98-81; s. 8, ch. 2004-371; s. 2, ch. 2010-117; s. 3, ch. 2014-5; s. 93, ch. 2015-2; s. 44, ch. 2016-24; s. 27, ch. 2016-104.

**775.26 Registration of career offenders and public notification; legislative findings and intent.**—The Legislature finds that certain career offenders, by virtue of their histories of offenses, present a threat to the public and to communities. The Legislature finds that requiring these career offenders to register for the purpose of tracking these career offenders and that providing for notifying the public and a community of the presence of a career offender are important aids to law enforcement agencies, the public, and communities if a career offender engages again in criminal conduct. Registration is intended to aid law enforcement agencies in timely apprehending a career offender. Registration is not a punishment, but merely a status. Notification to the public and communities of the presence of a career offender aids the public and communities in avoiding being victimized by a career offender. The Legislature intends to require the registration of career offenders and to authorize law enforcement agencies to notify the public and communities of the presence of a career offender.

**History.**—s. 2, ch. 2002-266.

**775.261 The Florida Career Offender Registration Act.**—

(1) SHORT TITLE.—This section may be cited as "The Florida Career Offender Registration Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) “Career offender” means any person who is designated as a habitual violent felony offender, a violent career criminal, or a three-time violent felony offender under s. 775.084 or as a prison releasee reoffender under s. 775.082(9).

(b) “Chief of police” means the chief law enforcement officer of a municipality.

(c) “Community” means any county where the career offender lives or otherwise establishes or maintains a temporary or permanent residence.

(d) “Department” means the Department of Law Enforcement.

(e) “Entering the county” includes being discharged from a correctional facility, jail, or secure treatment facility within the county or being under supervision within the county with a career-offender designation as specified in paragraph (a).

(f) “Permanent residence” means a place where the career offender abides, lodges, or resides for 14 or more consecutive days.

(g) “Temporary residence” means:

1. A place where the career offender abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the career offender’s permanent address;

2. For a career offender whose permanent residence is not in this state, a place where the career offender is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or

3. A place where the career offender routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the career offender’s permanent residence, including any out-of-state address.

(3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

(a) A career offender released on or after July 1, 2002, from a sanction imposed in this state must register as required under subsection (4) and is subject to community and public notification as provided under subsection (5). For purposes of this section, a sanction imposed in this state includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, private correctional facility, or local detention facility, and:

1. The career offender has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph; or

2. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) This section does not apply to any person who has been designated as a sexual predator and required to register under s. 775.21 or who is required to register as a sexual offender under s. 943.0435 or s. 944.607. However, if a person is no longer required to register as a sexual predator

under s. 775.21 or as a sexual offender under s. 943.0435 or s. 944.607, the person must register as a career offender under this section if the person is otherwise designated as a career offender as provided in this section.

(c) A person subject to registration as a career offender is not subject to registration as a convicted felon under s. 775.13. However, if the person is no longer required to register as a career offender under this section, the person must register under s. 775.13 if required to do so under that section.

(d) If a career offender is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the career offender's fingerprints are taken and forwarded to the department within 48 hours after the court renders its finding that an offender is a career offender. The fingerprints shall be clearly marked, "Career Offender Registration."

(4) REGISTRATION.—

(a) A career offender must register with the department by providing the following information to the department, or to the sheriff's office in the county in which the career offender establishes or maintains a permanent or temporary residence, within 2 working days after establishing permanent or temporary residence in this state or within 2 working days after being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility:

1. Name, social security number, age, race, gender, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence within the state or out of state, including a rural route address or a post office box, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the career offender. A career offender may not provide a post office box in lieu of a physical residential address. If the career offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the career offender shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a career offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the career offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If a career offender registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the career offender and forward the photographs and fingerprints to the department, along with the information that the career offender is required to provide pursuant to this section.

(c) Within 2 working days after the registration required under paragraph (a), a career offender who is not incarcerated and who resides in the community, including a career offender under the supervision of the Department of Corrections pursuant to s. 944.608, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver license office, the career offender shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The career offender shall identify himself or herself as a career offender who is required to comply with this section, provide his or her place of permanent or temporary residence, including a rural route address or a post office box, and submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of career offenders. The career offender may not provide a post office box in lieu of a physical residential address. If the career offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the career offender shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the motor vehicle registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a career offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the career offender shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section.

3. Provide, upon request, any additional information necessary to confirm the identity of the career offender, including a set of fingerprints.

(d) Each time a career offender's driver license or identification card is subject to renewal, and within 2 working days after any change of the career offender's residence or change in the career offender's name by reason of marriage or other legal process, the career offender must report in person to a driver license office, and shall be subject to the requirements specified in paragraph (c). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by career offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and

Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the department for purposes of public notification of career offenders as provided in this section.

(e) If the career offender registers at an office of the department, the department must notify the sheriff and, if applicable, the police chief of the municipality, where the career offender maintains a residence within 48 hours after the career offender registers with the department.

(f) A career offender who intends to establish residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence or the department within 2 working days before the date he or she intends to leave this state to establish residence in another state or jurisdiction other than the State of Florida. If the career offender is under the supervision of the Department of Corrections, the career offender shall notify the supervising probation officer of his or her intent to transfer supervision, satisfy all transfer requirements pursuant to the Interstate Compact for Supervision of Adult Offenders, as provided in s. 949.07, and abide by the decision of the receiving jurisdiction to accept or deny transfer. The career offender must provide to the sheriff or department the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the career offender. The failure of a career offender to provide his or her intended place of residence is punishable as provided in subsection (8).

(g) A career offender who indicates his or her intent to reside in a state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 2 working days after the date upon which the career offender indicated he or she would leave this state, report in person to the sheriff or the department, whichever agency is the agency to which the career offender reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the career offender that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A career offender who reports his or her intent to reside in a state or jurisdiction other than the State of Florida, but who remains in this state without reporting to the sheriff or the department in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(h)1. The department shall maintain online computer access to the current information regarding each registered career offender. The department must maintain hotline access so that state, local, and federal law enforcement agencies may obtain instantaneous locator file and criminal characteristics information on release and registration of career offenders for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints need not be stored in a computerized format.

2. The department’s career offender registration list, containing the information described in subparagraph (a)1., is a public record. The department may disseminate this public information by

any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a career offender to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a career offender cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a career offender to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of a career offender and the dissemination of information regarding a career offender as required by this section.

(i) A career offender must maintain registration with the department for the duration of his or her life, unless the career offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a career offender for purposes of registration. However, a registered career offender who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court of the circuit in which the registered career offender resides for the purpose of removing the requirement for registration as a career offender. The court may grant or deny such relief if the registered career offender demonstrates to the court that he or she has not been arrested for any crime since release and the court is otherwise satisfied that the registered career offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the registered career offender may again petition the court for relief, subject to the standards for relief provided in this paragraph. The department shall remove a person from classification as a career offender for purposes of registration if the person provides to the department a certified copy of the court's written findings or order that indicates that the person is no longer required to comply with the requirements for registration as a career offender.

(5) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies may inform the community and the public of the presence of a career offender in the community. Upon notification of the presence of a career offender, the sheriff of the county or the chief of police of the municipality where the career offender establishes or maintains a permanent or temporary residence may notify the community and the public of the presence of the career offender in a manner deemed appropriate by the sheriff or the chief of police.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(6) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of career offenders. The sheriff of each county shall annually verify the addresses of career offenders who are not under the care, custody, control, or supervision of the Department of Corrections. The sheriff shall promptly provide the address verification information to the department in an electronic format. The address verification information must include the verifying person's name, agency, and phone number, the date of verification, and the method of verification, and must specify whether the address information was verified as correct, incorrect, or unconfirmed.

(7) IMMUNITY.—The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a career offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(8) PENALTIES.—

(a) Except as otherwise specifically provided, a career offender who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or identification card; who fails to provide required location information or change-of-name information; or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who misuses public records information concerning a career offender, as defined in this section, or a career offender, as defined in s. 944.608 or s. 944.609, to secure a payment from such career offender; who knowingly distributes or publishes false information concerning such a career offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement

agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) PROSECUTIONS FOR ACTS OR OMISSIONS.—A career offender who commits any act or omission in violation of this section, s. 944.608, or s. 944.609 may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the career offender, the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a career offender, or in the county in which he or she was designated a career offender.

(10) ASSISTING IN NONCOMPLIANCE.—It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person who has reason to believe that a career offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the career offender in eluding a law enforcement agency that is seeking to find the career offender to question the career offender about, or to arrest the career offender for, his or her noncompliance with the requirements of this section, to:

(a) Withhold information from, or fail to notify, the law enforcement agency about the career offender's noncompliance with the requirements of this section and, if known, the whereabouts of the career offender;

(b) Harbor or attempt to harbor, or assist another in harboring or attempting to harbor, the career offender;

(c) Conceal or attempt to conceal, or assist another in concealing or attempting to conceal, the career offender; or

(d) Provide information to the law enforcement agency regarding the career offender which the person knows to be false.

**History.**—s. 3, ch. 2002-266; s. 9, ch. 2004-371; s. 2, ch. 2006-200; s. 1, ch. 2010-69; s. 60, ch. 2013-116; s. 45, ch. 2016-24.

**775.30 Terrorism; defined.**—As used in the Florida Criminal Code, the term "terrorism" means an activity that:

(1)(a) Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or

(b) Involves a violation of s. 815.06; and

(2) Is intended to:

(a) Intimidate, injure, or coerce a civilian population;

(b) Influence the policy of a government by intimidation or coercion; or

(c) Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

**History.**—s. 1, ch. 2001-356; s. 5, ch. 2001-365; s. 1, ch. 2001-366.

**775.31 Facilitating or furthering terrorism; felony or misdemeanor reclassification.**—

(1) If a person is convicted of committing a felony or misdemeanor that facilitated or furthered any act of terrorism, the court shall reclassify the felony or misdemeanor to the next higher degree as provided in this section. The reclassification shall be made in the following manner:

(a) In the case of a misdemeanor of the second degree, the offense is reclassified as a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified as a felony of the third degree.

(c) In the case of a felony of the third degree, the offense is reclassified as a felony of the second degree.

(d) In the case of a felony of the second degree, the offense is reclassified as a felony of the first degree.

(e) In the case of a felony of the first degree or a felony of the first degree punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

(2) For purposes of sentencing under chapter 921, the following offense severity ranking levels apply:

(a) An offense that is a misdemeanor of the first degree and that is reclassified under this section as a felony of the third degree is ranked in level 2 of the offense severity ranking chart.

(b) A felony offense that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

(3) As used in this section, the term “terrorism” means an activity that:

(a)1. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or

2. Involves a violation of s. 815.06; and

(b) Is intended to:

1. Intimidate, injure, or coerce a civilian population;

2. Influence the policy of a government by intimidation or coercion; or

3. Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.